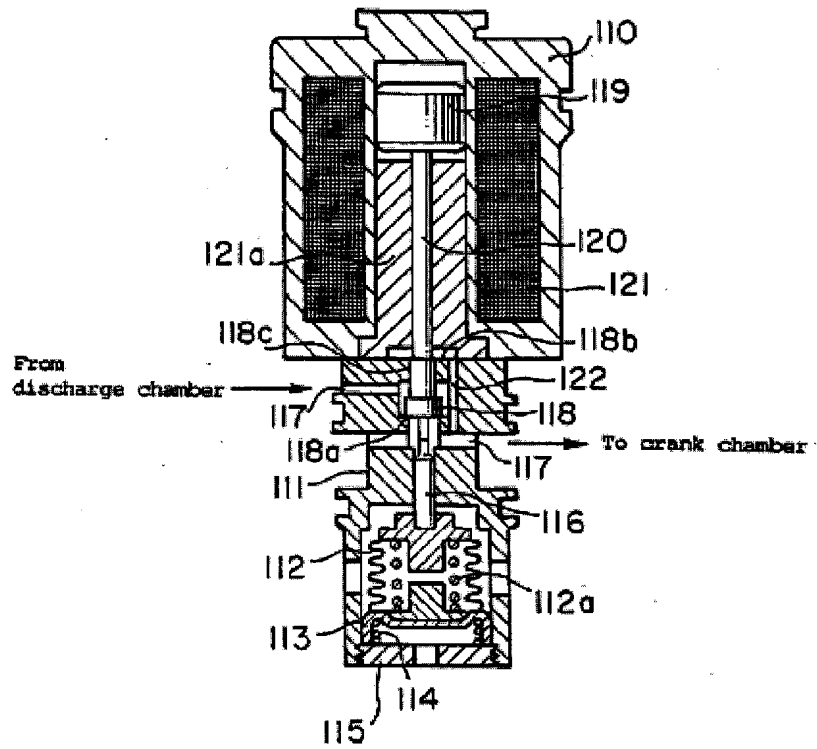



FIG. 4



RELATED ART  add legend

**Request for Reconsideration:**

Applicant now is amending claim 1. Applicant is amending the drawings and the specification in response to the objections in the Office Action. Accordingly, claims 1-5 currently are pending in the present application. Applicant respectfully requests that the Examiner reconsider the above-captioned patent application in view of the foregoing amendments and the following remarks.

**Remarks:**

1. **Objection and Rejections.**

The Office Action objects to the drawing because **Fig. 4** allegedly illustrates “only that which is old,” but lacks a legend, such as “Prior Art.” In addition, the Office Action objects to the specification because of some minor informalities. Claims 1-4 stand rejected under 35 U.S.C. § 102(a), as allegedly anticipated by Published Application No. US 2001/0003573 A1 to Kimura *et al.* (“Kimura”), which now has issued as Patent No. US 6,481,976 B2. Claim 5 stands rejected under 35 U.S.C. § 103(a), as allegedly rendered obvious by Kimura in view of U.S. Patent No. 5,332,365 to Taguchi (“Taguchi ‘365”). Applicant respectfully traverses.

2. **Drawing Objection.**

The Office Action objects to the drawings because **Fig. 4** allegedly illustrates known displacement control valve, but is not designated by a legend, such as “Prior Art.” MPEP 608.02(g). Thus, Applicant is amending **Fig. 4** by adding the legend “Related Art.” Therefore, Applicant respectfully requests that the Examiner withdraw the objection to the drawings.

3. **Specification Objection.**

The Office Action objects to the specification because it allegedly is unclear. Accordingly, Applicant is amending the specification to more clearly describe that “discharge pressure from each of communication passages 66, 68 acting on either side transmission rod 10 of valve element 9 cancel each other out, and as a result, the discharge pressure does not substantially influence the movement in the axial direction of valve element 9.” Therefore, Applicant respectfully requests that the Examiner withdraw the objection to the specification.

4. **Anticipation Rejection.**

As noted above, the Office Action rejects claims 1-4 as allegedly anticipated by Kimura. “A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. . . . ‘The identical invention must be shown in as complete detail as is contained in the . . . claim.’” MPEP 2131 (citations omitted). The Office Action contends that Kimura discloses each and every element of claims 1-4. Applicant respectfully traverses.

a. Independent Claim 1

Independent claim 1, as amended, describes that “a gap is defined between said partition wall and said valve element for forming a non-contact structure which does not give a sliding resistance relative to a movement of said valve element in its axial direction.” Applicant respectfully submits that Kimura fails to disclose at least this element of amended, independent claim 1.

Kimura states that “second valve element 44b of the second plunger 44 is arranged in the valve chamber 47 as a movable wall which divides the valve chamber into an upper region and a lower region.” Kimura, Para. [0066] (emphasis added); see also Kimura, **Figs. 2 and 7**. Second plunger also has a sleeve section 44a with a solenoid rod guide hole 44c formed therein, and “the solenoid rod section 43d of the operation rod 43 is arranged in this solenoid guide hole 44c so that it is movable in the axial direction of the valve housing 45.” Kimura, Para. [0068]. As shown in **Figs. 2 and 7** of Kimura, for example, solenoid rod guide hole 44c, extends through the length of second plunger 44, including second valve element 44b, and is configured to guide operation rod with sliding resistance, as shown in the known displacement valve in Applicant’s disclosure. Cf. Published Application No. US 2005/0163624 A1 to Taguchi (“Taguchi ‘624”), Para. [0005]; **Fig. 4**. Accordingly, Kimura fails to disclose “a

gap [that] is defined between said partition wall and said valve element for forming a non-contact structure which does not give a sliding resistance relative to a movement of said valve element in its axial direction.”

Moreover, Kimura fails to disclose a “partition wall,” as described by claim 1. As noted above, second plunger 44 divides valve chamber 47 into upper and lower regions. Second plunger 44, however, is movable between a closed position, as shown in **Fig. 3**, and an open position, as shown, in **Fig. 4**, to selectively permit communication of pressure through second communication path 58. See, e.g., Kimura, Para. [0066]. In contrast, Applicant discloses a non-movable “partition wall” that is “a non-contact structure which does not give a sliding resistance,” and thereby reduces a number sliding parts that may generate sliding resistance. See, e.g., Taguchi ‘624, Para. [0005]. Accordingly, modifying the “movable wall” of Kimura’s second valve element 44b would change Kimura’s principle of operation. Thus, Kimura also fails to disclose a “partition wall,” as described by claim 1.

As a result, Kimura fails to disclose each and every element of claim 1, as amended. Therefore, Applicant respectfully requests that the Examiner withdraw the anticipation rejection of amended, independent claim 1.

b. Dependent Claims 2-4

Claims 2-4 depend from independent claim 1. As a result, these dependent claims incorporate each and every element of claim 1. Thus, if Kimura fails to disclose all of the elements of claim 1, as amended, this reference also must fail to disclose all of the elements of the dependent claims, as well. Therefore, in view of the foregoing amendments and remarks with respect to claim 1, Applicant respectfully requests that the Examiner withdraw the anticipation rejections of dependent claims 2-4.

4. Obviousness Rejection.

As noted above, the Office Action rejects claim 5 as allegedly rendered obvious by Kimura in view of Taguchi '365. Claim 5 depends from independent claim 1, and, thus, claims 5 incorporates each and every element of claim 1, as amended. "If an independent claim is non-obvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious." MPEP 2143.03 (citations omitted). Moreover, Taguchi '365 fails to supply the aforementioned deficiencies of Kimura. Therefore, in view of the foregoing amendments and remarks with respect to claim 1, Applicant respectfully requests that the Examiner withdraw the obviousness rejection of dependent claim 5.

**Conclusion:**


Applicant maintains that the above-captioned patent application, as amended, is in condition for allowance, and such disposition is earnestly solicited. If the Examiner believes that the prosecution of this application may be furthered by discussing the application, in person or by telephone, with Applicant's representative, Applicant would welcome the opportunity to do so.

Applicant believes that no fees are due as a result of this responsive amendment. Nevertheless, in the event of any variance between the fees determined by Applicant and the fees determined by the PTO, please charge or credit any such variance to the undersigned's **Deposit Account No. 02-0375**.

Respectfully submitted,  
BAKER BOTTS, L.L.P.

Date: **May 23, 2007**

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